

JARY J. HUNNICUTT ET AL.

IBLA 77-222
77-244

Decided April 27, 1977

Appeal from decisions of the Colorado State Office, Bureau of Land Management, requesting additional rental prior to the issuance of noncompetitive oil and gas leases.

Affirmed.

1. Oil and Gas Leases: Applications: Generally! ! Oil and Gas Leases:
Noncompetitive Leases! ! Oil and Gas Leases:
Rentals! ! Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date.

APPEARANCES: Raymond J. Gengler, Esq., Denver, Colorado.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Jary J. Hunnicutt and Donald B. Anderson, Ltd., have appealed from determinations dated February 14, 1977, by the Colorado State Office, Bureau of Land Management, requiring payment of rental at the rate of \$ 1 per acre prior to the issuance of 10 noncompetitive oil and gas leases. 1/

In each case Hunnicutt filed an over! the! counter offer for a noncompetitive oil and gas lease on October 31, 1975. In accordance with the pertinent regulation he submitted with his offer

1/ The offers are as follows:

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C-23235	C-23240	C-23244
C-23236	C-23241	C-23245
C-23237	C-23242	
C-23239	C-23243	

rental at the rate of 50 cents per acre. 43 CFR 3103.3 (1975). In its decisions the State Office informed appellant that prior to the issuance of a lease special stipulations were required and an additional rental of 50 cents per acre was due as a result of the increase in rental imposed by an amendment to the regulation, on all leases issued after February 1, 1977. 42 F.R. 1032 (January 5, 1977), revising 43 CFR 3103.3-2. The appellants paid the additional amount demanded under protest.

The appellants point out that the notice of the revision published in the Federal Register stated that the effective date of the change was made February 1, 1977, so that the BLM offices could have additional time to see if the necessary paperwork could be completed on pending applications prior to that date. They contend that it is unfair and discriminatory to have accepted offers and issued leases on offers, particularly simultaneous offers, filed after theirs.

The Board has considered fully the issues raised by the increase in rentals. It has held that any lease issued on or after February 1, 1977, must pay the increased rental. Raymond N. Joeckel, 29 IBLA 170 (1977); Milton J. Lebsack, 29 IBLA 316 (1977). For the reasons stated therein, appellants were properly required to pay the increased rental.

As to the delay in processing appellant's offers, we note that they covered lands in an area for which special studies were necessary to determine if and under what conditions oil and gas leasing would be allowed so that processing was necessarily delayed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions of the Colorado State Office are affirmed.

Martin Ritvo
Administrative Judge

We concur:

Newton Frishberg
Chief Administrative Judge

Douglas E. Henriques
Administrative Judge.

